

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEBRASKA

IN RE: _____)
) Case No. BK15-81898-TLS
JOSEPH ALLEN HARTLEY and) Chapter 7
RACHEL KAY HARTLEY,)
) AFFIDAVIT OF ROBERT S. CATANZARO

* * * * *

STATE OF RHODE ISLAND)
) ss
COUNTY OF _____))

I, ROBERT S. CATANZARO, being first duly sworn on oath, deposes and states the following:

1. I am the Chief Executive Officer of Independence Bank ("Independence"), a creditor and party in interest in the above-entitled proceeding, and have acted in such capacity for all times relevant to the subject matter hereof.

2. I have personal knowledge of the facts set forth herein and, if called to testify, will testify as to the same.

3. This affidavit is offered in support of Independence's Objection to the Trustee's Amended Motion to Authorize Interim Distribution (ECF Doc. 223).

4. Independence filed two (2) claims in the debtors' bankruptcy proceeding with an aggregate claim amount, as of the date the claims were filed, of \$1,969,459.54.

5. Independence's claims are based on the personal guarantees (the "Guarantees") of Joseph Allen Hartley and Rachel Kay Hartley (collectively, the "Debtors") given to Independence in connection with loans Independence made to entities owed, in part, by Debtors (the "Loans"). Copies of the Guarantees are attached to Independence's claims, which are listed in the Debtors' bankruptcy proceeding as Claim Nos. 9 and 10.

6. Independence is currently involved in litigation in the United States District Court of Rhode Island, captioned as Becker, et al v. Independence Bank, No. 1:14-CV-00534-L-LDA, regarding the enforceability of the Guarantees, among other issues (the "Rhode Island Litigation").

7. As of February 5, 2018, Independence has incurred expenses totaling \$372,586.94 for attorney fees and other costs directly relating to, or arising out of, the Rhode Island Litigation and enforcement of the Guarantees. Such fees and costs are, pursuant to the terms of the

Guarantees and other documents executed in connection with the Loans, additional debts of the Debtors and collectible under the terms thereof.

8. As of February 5, 2018, interest accruing on the unpaid balances due to Independence under the each respective promissory note executed in connection with the Loans and secured by the Guarantees, and which is not already included in Independence's claims, is \$187,058.00.

9. In the event the Rhode Island Litigation is resolved in Independence's favor, Independence intends to amend its claims in the Debtors' bankruptcy proceeding to include all amounts recoverable under the Guarantees, including the attorney fees and other costs incurred by Independence to enforce the Guarantees, as well as the accrued, but unpaid interest which is not already calculated into the amount of Independence's claims as previously filed.

FURTHER THE AFFIANT SAYETH NOT.

ROBERT S. CATANZARO

Subscribed and sworn to before me this ____ day of _____, 2018.

Notary Public

Certificate of Service

I hereby certify that on the ____ day of February, 2018, I electronically filed the foregoing Objection with the Clerk of Court using the CM/ECF System.
